

ARACELI S. DE JESUS, COMPLAINANT, VS. ATTY. CONSUELO COLLADO, RESPONDENT.*Adm. Case No. 3806. December 16, 1992*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/5183b9d5c34c/>**PER CURIAM:**

In a sworn letter-complaint dated 3 February 1992 addressed to the Office of the Chief Justice, Araceli De Jesus charged Consuelo Collado, Court Attorney IV in the Office of the Clerk of Court (Third Division), Supreme Court, with committing "the deceitful act of issuing nine (9) bouncing checks in the total amount of P243,063.75, manifesting conduct unbecoming of a public servant and member of the Bar." [1] In another sworn letter-complaint dated 10 March 1992 filed with the Office of the Bar Confidant (docketed as Adm. Case No. 3806), the same complainant further sought the disbarment of the respondent for committing that alleged deceitful act. [2]

A copy of the first letter complaint was served by the complainant on the Chief Administrative Officer of the Supreme Court, Atty. Adelaida C. Baumann. [3] This circumstance led to the commencement of an administrative investigation of respondent for possible violation of the Civil Service Law.

In an Indorsement dated 12 February 1992, Atty. Baumann required respondent to submit her comment on the letter-complaint of 3 February 1992 within five (5) days from notice thereof. [4] Respondent failed to submit a comment despite due notice.

A second Indorsement dated 17 March 1992 was served on respondent on 30 March 1992 and required her to answer the charge within seventy-two (72) hours, as well as to indicate whether she wished to be heard in a formal investigation. This Indorsement warned respondent that a failure to answer the charge would be construed as waiver of her right to be heard. [5] No answer or comment was ever received from respondent. [6]

Meanwhile, acting on the disbarment complaint dated 10 March 1992, the Court resolved on 19 March 1992 to require respondent Atty. Collado to submit a comment thereon within ten (10) days from notice. [7] Respondent complied with this resolution after considerable delay, submitting a two-page comment for the purpose. [8] In a Resolution dated 2 June 1992, the Court, acting upon complainant's "Urgent Ex Parte Motion to Bar Atty. Collado's Trip to the United States" dated 7 May 1992, ordered the Commission on Immigration and Deportation to issue a hold-departure order to stop respondent from leaving the country. [9]

In a Resolution dated 28 July 1992, the Court further directed the Office of Administrative Services to complete its civil service disciplinary investigation of respondent's case and to submit its report and recommendation to the Court within thirty (30) days. [10] The required report, prepared by Atty. Ennar Cabanilla of the Complaints and Investigation Division, was submitted to the Court on 7 September 1992. [11] The report summed up the facts of the case as follows:

"In said letter-complaint [dated 3 February 1992], it was alleged: (1) that in November and December 1991, Collado obtained from complainant several merchandise; (2) that, as payment for said merchandise, Collado issued postdated checks; (3) that, after making good two or three checks, the others were dishonored by the

drawee bank due to insufficiency of funds and closed accounts; and (4) that despite repeated demands, Collado failed to comply with her obligations. In support of her claim, complainant attached therewith xerox copies of the dishonored checks.

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Pending resolution of the instant case, this Office was apprised by complainant, through her submission of an affidavit of desistance dated 5 August 1992, that she is no longer interested to proceed with all the administrative and criminal cases she filed against Collado since the latter has already paid her obligation in full through the replacement of her dishonored checks with cash.

x x x x x x x x"[12]

The bouncing checks respondent had issued gave rise to at least nine criminal informations for estafa or violation of B.P. Blg. 22, against respondent, who posted bail for her provisional liberty.[13] As far as the record is concerned, these criminal cases are still pending in court.

No separate proceeding for the taking of evidence regarding the disbarment complaint was undertaken. However, considering that respondent had been given due notice of the fact that two (2) distinct proceedings had been instituted against her; that she was given a fair opportunity to reply to the charges in both proceedings; that she effectively waived such an opportunity in the civil service disciplinary proceeding and that respondent had in fact replied to the charges in the disbarment proceeding through the submission of a two-page comment, the Court considers that there is no legal obstacle to a definitive resolution of the two complaints filed against respondent.

Coming first to the complaint for disbarment, respondent Collado admits that she had purchased merchandise from complainant De Jesus on credit, with the intention of reselling the same to friends and neighbors. Respondent also admits having issued postdated checks, allegedly upon complainant's request in order to "fix" respondent's obligation to complainant. Respondent stated that her buyers did not remit their payments to respondent, resulting in her inability to "fully cover the figures mentioned in the check(s)." Respondent contends that her transactions with complainant De Jesus were "purely private in character and [did] not in any manner concern [her] being employed in the Supreme Court and, likewise, [her] membership in the Bar." [14]

We note that respondent Collado had also admitted before the Office of the Prosecutor of the City of Manila, during preliminary investigation of the charges of estafa or violations of B.P. Blg. 22, that she had issued the postdated checks which were dishonored upon their presentment.

In the case at bar, no conviction for violation of B.P. Blg. 22 has as yet been obtained against respondent Collado. We do not, however, believe that conviction of the criminal charges raised against her is essential, so far as either the administrative or civil service case or the disbarment charge against her is concerned.[15] Since she had admitted issuing the checks when she did not have enough money in her bank account to cover the total amount thereof, it cannot be gainsaid that the acts with which she was charged would constitute a crime penalized by B.P. Blg. 22. We consider that issuance of checks in violation of the provisions of B.P. Blg. 22 constitutes serious misconduct on the part of a member of the Bar. That misconduct was in effect compounded when, according to the complainant, respondent was about to evade performance of her obligation by leaving the country and proceeding to the United States, a course of action frustrated by the hold-departure order issued by this Court and not denied by respondent.

Time and again this Court has stressed that the conduct of everyone connected with the dispensation of justice, from the judges to the most junior of clerks, must at all times be characterized with propriety and decorum and be above suspicion.[16] The Court has also held that a member of the Bar must observe honesty and fairness even in

private transactions and that failure to do so may be a ground for disciplinary action against the lawyer.[17] In the case at bar, respondent Collado failed to live up to the demanding standards required from members of the Bar.

Turning to the administrative (civil service) disciplinary case against respondent Collado, we agree with the investigating attorney that the acts committed by respondent Collado also constitute serious misconduct which is a ground under Civil Service law and regulations, for separation from the service.[18]

ACCORDINGLY, the Court Resolved to

(1) in the disciplinary proceedings addressed to respondent Atty. Consuelo Collado as a member of the Bar, to SUSPEND respondent from the practice of law for a period of one (1) year. A copy of this Resolution shall be furnished to all the courts of the land for their information and guidance. This Resolution shall also be spread on the personal record of respondent Atty. Collado in the Office of the Bar Confidant; and

(2) in the Civil Service disciplinary case, to DISMISS respondent Collado from the service for serious misconduct, with prejudice to re-employment in any branch of the government service, including government-owned or controlled corporations. All retirement benefits or privileges to which respondent may be entitled, except leave credits already earned, are hereby DECLARED FORFEITED.

Narvasa, C.J., (Chairman), Gutierrez, Jr., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, and Campos, Jr., JJ., concur.

[1] Memorandum of the Office of Administrative Services dated 27 August 1992 (hereinafter referred to as the "OAS Memo"); Annex "K," p. 1.

[2] Rollo, p. 1; OAS File on Atty. Consuelo Collado, pp. 16-17.

[3] OAS Memo; Annex "K," p. 2.

[4] Id., Annex "J."

[5] Id., Annex "H."

[6] Id., p. 1.

[7] Rollo, p. 21.

[8] Id., pp. 33 and 36.

[9] Rollo, pp. 31-32.

[10] Id., p. 50.

[11] OAS Memo, pp. 2-3.

[12] Id., pp. 1-2.

[13] Rollo, p. 39.

[14] Id., p. 34.

[15] See, e.g., *Royong v. Oblena*, 7 SCRA 867 (1963); and *Seny v. Magat*, 119 SCRA 111 (1982). See also the following cases where the Court suspended from the practice of law lawyers who had been acquitted of the criminal charges brought against them: *Piatt v. Abordo*, 58 Phil. 350 (1933); *In Re Del Rosario*, 52 Phil. 399 (1928); and *In Re Terrell*, 2 Phil. 266 (1903).

[16] See *Del Rosario v. Bascar*, 206 SCRA 678, 686 (1992); *Callejo, Jr. v. Garcia*, 206 SCRA 491, 496 (1992).

[17] *Lizaso v. Amante*, 198 SCRA 1, 9-11 (1991); *Bautista v. Gonzales*, 182 SCRA 151, 162 (1990).

[18] Section 46(b), sub-paragraph 4, Chapter 6, Sub-Title I, Book 5, Revised Administrative Code of 1987; Memorandum Circular No. 30 of the Civil Service Commission (series of 1989), paragraph A, sub-paragraph 3.

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